

Remarks

Novelty Rejection Under 35 U.S.C. § 102

The Examiner has rejected independent claim 69 under 35 U.S.C. §102(b) as anticipated by Bosch, DE 35 29 743. This rejection is respectfully traversed.

Applicant has previously explained that independent claim 69 is not anticipated by Bosch, for two reasons. First, it does not disclose an ECU that determines the rate at which a supply device supplies an agency to a motor that drives a brake power source. Second, it does not disclose an ECU that receives information reflecting air pressure and then controls a supply device based on that information (or, with respect to independent claim 91, information reflecting temperature in an air dryer).

The Examiner has responded to these arguments concerning Bosch's failure to anticipate independent claim 69 with the statement "Regarding DE 35 29 743, please [refer to] figure 4 of the reference which shows control devise 96 and/or 104 and brake power source 28." 12/12/06 Office Action at 7. Applicant respectfully notes that it does understand the relevance of this statement, and further, Applicant respectfully points out that it has had difficulty throughout the prosecution of this application interpreting these types of vague "see item X" remarks.

The figure identified by the Examiner (figure 4) does not disclose all of the elements recited in independent claim 69. First, in the embodiment illustrated in figure 4 (like the other embodiments already previously discussed by Applicant), Bosch's ECU 53 does not determine the rate at which a supply device supplies an agency to a motor that drives a brake power source. In the embodiment illustrated in figure 4 and described at the bottom of Col.5, the ECU does not control pump 95. Second, and even more specifically, the ECU 53 does not receive information reflecting air pressure and then control a supply device based on that information. Indeed, the Office Action itself recognizes this fact elsewhere. See 12/12/06 Office Action at 4. Similarly, with respect to claim 91, Bosch does not disclose such use of information, where the information reflects the temperature in an air dryer.

Bosch does not disclose this arrangement, and therefore, the rejection under 35 U.S.C. §102(b) is improper. If the Examiner intends to maintain the §102 rejection based upon Bosch, Applicant requests that the Examiner clearly explain how any of the particular embodiments described in Bosch allegedly disclose:

(1) an electronic control unit that determines (2) the rate at which a supply device supplies an agency (3) to a motor (4) that drives a brake power source (5) based on information reflecting air pressure

Applicant respectfully requests that the Examiner not respond with “note item X” remarks. Applicant requests that the Examiner clearly explain how a particular embodiment discloses this complete system, or else withdraw the rejection.

Obviousness Rejection Under 35 U.S.C. § 103

The Examiner has rejected independent claims 69 and 91 under 35 U.S.C. 35 U.S.C. §103 as obvious over Bosch, DE 35 29 743, at the time of the invention in view of Bruehmann et al., U.S. Patent No. 6,089,831. This rejection is respectfully traversed.

Applicant respectfully submits that this rejection is improper, for a number of reasons.

First, even if the Bruehmann reference *were* properly combined with Bosch to provide a teaching for using information reflecting air pressure and air dryer temperature for control, one would still not arrive at the present invention because, as explained above with respect to Bosch, there is still no teaching of using an ECU to control a supply device that supplies an agency to a motor that controls the brake power source. Accordingly, a combination of Bosch and Bruehmann still does not disclose all of the elements recited in claims 69 and 91.

Second, the Examiner has not identified a suggestion/motivation for using information reflecting pressure or air dryer temperature in the way claimed. The

Examiner states that one skilled in the art would understand the necessity of maintaining adequate pressure/temperature and that Bruehmann demonstrates monitoring these signals. However, the Examiner has still not identified where or why there is any suggestion to one skilled in the art that it would be desirable to perform such maintenance of adequate pressure/temperature by monitoring these signals and using that information to control the rate at which a supply device supplies an agency to a motor that drives the brake power source, as opposed to employing any other method for maintaining adequate pressure, such as by providing a relief point for excess pressure. There is no suggestion to maintain adequate pressure by using the specific claimed arrangement instead of any other, such as those that are actually described in Bruehmann.

Third, the Examiner has failed to address Applicant's explanation of how Bruehmann actually teaches away from employing an ECU that uses information reflecting air pressure (or air dryer temperature) to determine the rate at which a supply device supplies an agency to the motor driving the brake power source. Specifically, Bruehmann teaches to instead deal with differences between the power supplied by the engine and the desired amount of air compression by regularly compressing air at full speed, and either diverting the unneeded air to a relief point or switching off or uncoupling the coupling. See Col. 3, Ins. 20-30.

For each of these reasons, the rejection under 35 U.S.C. §103 is improper. If the Examiner intends to maintain the §103 rejection, Applicant again respectfully requests

that the Examiner specifically address each of the above points, or else allow the claims.

Applicant submits that, for the foregoing reasons, generic claim 69 is allowable, and thus, the claims the Examiner has indicated to be withdrawn (claims 75 and 87-90) are also allowable.

It is respectfully submitted that claims 67-91, all of the claims remaining in the application, are in order for allowance, and early notice to that effect is respectfully requested.

Respectfully submitted,

March 12, 2007



Wesley W. Whitmyer Jr., Registration No. 33,558
David W. Aldrich, Registration No. 51,159
Attorneys for Applicant
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
Tel. 203 324-6155